

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NURSING**

239 Causeway Street, Room 417A
Boston, MA 02114

**CORRECTED Minutes of the Re-Scheduled Board Meeting-Regular Session
Wednesday, January 19, 2017**

Board Members Present

K. Gehly, CNP, Chair
B. Levin RN, Vice Chair
S. Abbott, Public Member
J. Killion, LPN
C. LaBelle, RN
A. Peckham, RN
L. Keough, CNP (arrived at 8:30 a.m.)
G. Dufault, LPN
D. Drew, Public Member
P. Noonan, RN

Board Members Not Present

C. Simonian, PharmD, RPh
J. Fantes, MD
D. Zucker, RN

Staff Present

L. Silva, RN, DNP, Executive Director
C. MacDonald, RN, DNP, Deputy Executive Director
C. Silveira, MS, RN, Assistant Director
K. Ashe, RN, Nursing Education Coordinator
O. Atueyi, JD, Board Counsel
V. Berg, JD, Chief Board Counsel (arrived at 8:35 a.m.)
B. Olmixon, Board Counsel
H. Cambra, RN, JD, Complaint Resolution Coordinator
D. M. DeVaux, RN, SARP Coordinator
A. Fein, RN, JD, Complaint Resolution Coordinator
K. Keenan, Licensing Coordinator
C. Pascarella, JD, Probation Staff
L. Talarico, CNP, Nursing Practice Coordinator
T. Westgate, Program Coordinator
B. Oldmixon, Board Counsel
K. Fishman, Probation Monitor (arrived at 8:30 a.m.)

Staff Not Present

TOPIC:

Call to Order & Determination of Quorum

DISCUSSION:

A quorum of the Board was present. Board members and staff introduced themselves.

ACTION:

At 8:00 a.m., K. Gehly, Chairperson, called the January 19, 2017 Re-Scheduled Board Meeting-Regular Session to order.

TOPIC:

Approval of Agenda

DISCUSSION:

K. Ashe stated that item C. 244 CMR 6.08(1)(h) NCLEX pass rate less than 80% for first time writers On Site Survey Roxbury Community College, Associate Degree, RN and Practical Nursing Programs was removed from the agenda.

ACTION:

Motion by B. Levin, seconded by J. Killion, and unanimously passed to approve the agenda as revised.

TOPIC:

Approval of Board Minutes for the December, 14 2016 Meeting of the Regularly Scheduled Board Meeting

DISCUSSION:

None.

ACTION:

Motion by J. Killion, seconded by B. Levin, and unanimously passed to accept the Minutes of the December 14, 2016, Regularly Scheduled Board Meeting.

TOPIC:

Education

A. 244 CMR 6.04(1)(c)&(1)(f) Administrative Changes

1. Bunker Hill Community College, Associate Degree RN Program (Program Administrator)
2. Quincy College, Associate Degree, RN and Practical Nursing Programs (Program Administrator)
3. Roxbury Community College, Associate Degree, RN and Practical Nursing Programs (Program Administrator)

B. 244 CMR 6.08(1)(h) NCLEX pass rate less than 80% for first time writers On Site Survey Roxbury Community College, Associate Degree, RN and Practical Nursing Programs

C. 244 CMR 6.08(1)(h) NCLEX pass rate less than 80% for first time writers American International College Baccalaureate Degree RN Program.

DISCUSSION:

A. RECUSAL: A. MacDonald recused herself from this matter and left the room during the deliberation and vote. K. Ashe briefed the Administrative changes to the Board and recommended that the Board approve the changes.

B. None.

C. A. MacDonald briefed the report to the Board. A. MacDonald recommended to accept the report submitted by the American International College as well as the staff report and find that the American International College Baccalaureate Degree RN Program was not in compliance with Board regulations. The program should maintain full approval status and be directed to correct its

deficiencies by February 17, 2017. K. Gehly asked if the school had been informed and A. MacDonald stated that the report had been briefed to the school administrators on January 11th.

ACTION:

Motion by D. Drew, seconded by G. Dufault, and unanimously passed to approve the administrative changes.

Motion by B. Levin, seconded by J. Killion, and unanimously passed to accept the recommendation.

TOPIC:

Strategic Development, Planning and Evaluation

- A. Request for approval of revisions to existing Board delegated authority related to: conditions of a Consent Agreement or Order and monitoring such conditions
- B. Presentation/Report
 - 1. 244 CMR 3.05
- C. Regulatory Review
 - 1. 244 CMR 4.00
 - 2. 244 CMR 5.00, 8.00 and 9.00
 - 3. 244 CMR 3.00, 6.00, 7.00 and 10.00
- D. Topics for Next Agenda

DISCUSSION:

A. A. Fein reviewed with the members her previously distributed memorandum to the Board requesting approval of specified revisions to existing Board delegated authority regarding certain conditions of a Consent Agreement or Board Order and monitoring such conditions pursuant to [Bureau] of Health Professions Licensure Policy (BHPL) 15-01. The proposed revisions would authorize the Probation Monitor to grant an extension of time for a licensee to obtain employment that would qualify to fulfill the minimum supervised professional practice of her/his Consent Agreement or Order, for three months at a time up to a total maximum of one (1) year, provided that all of the existing conditions designated for granting such an extension of time set forth in BHPL 15-01 are met with the exception only of the following limited modifications and additions:

(1) If the licensee is unemployed on the effective date of the Consent Agreement or Board Order, the request for an extension of time to obtain employment must be submitted within thirty (30) days immediately following such effective date;

(2) If the licensee is employed on the Effective Date of the Consent Agreement or Board Order, but becomes unemployed thereafter, the request for an extension of time to obtain employment must be submitted within thirty (30) days immediately following the date that the Licensee becomes unemployed;

(3) If the licensee is not employed in a nursing position as of the effective date of the Consent Agreement or Board Order that meets the requirements of the Agreement or Order and then subsequently obtains such nursing employment, the Probation Monitor may allow a corresponding extension of time necessary for the Licensee to satisfy the supervised active nursing practice requirements, *provided also that* the Licensee has notified the Probation Monitor of such employment and the Licensee's employer timely submits a Supervisor Verification Form (Form 1); and

(4) If the licensee provides satisfactory documentation that she or he has been granted a leave of absence for no longer than six (6) months from her or his nursing employment for medical or caretaker (e.g., child or elder care) reasons, with the approval of the Board's Executive Director or her

designee the Probation Monitor may allow a corresponding extension of time for the Licensee to satisfy the supervised active nursing practice requirements.

D. Drew asked about the period of time for a licensee to find qualifying employment. A. Fein stated that BHPL 15-01 as currently adopted by the Board includes existing conditions related to meeting supervised professional practice requirements. A. Fein emphasized that none of these proposed revisions were intended to alter any of other of the corresponding requirements and conditions set forth in the policy for the Probation Monitor to grant an extension of time to a licensee to satisfy the supervised professional practice requirements of her or his Agreement or Order.

B. L. Talarico briefed the presentation on the history of 244 CMR 3.05 to the Board. C. Silveira stated that the comments from the public hearing would be presented by V. Berg.

C. V. Berg briefed the board on the grammatical changes made to 244 CMR 4.00 as well as the addition of the opioid training requirement and recommended the Board adopt the changes and submit the regulation to public hearing. K. Gehly asked when the public hearing would be and V. Berg stated it would be in late February or early March.

V. Berg gave an updated to the Board on 244 CMR 5.00, 8.00 and 9.00 and stated that she had not received any written testimony yet. V. Berg stated that she would bring the regulations back to the Board with the public comments and proposed changes.

V. Berg gave an update on 244 CMR 3.00, 6.00, 7.00 and 10.00 and stated that the Board had received a substantial number of written and verbal comments from state representatives, programs, and the public. The Board received written comments on proposed revisions to 244 CMR 3.00 from State Representatives Denise Garlick and Kay Khan, the American Nurses Association, the Association for Behavioral Health, Able Home Care LLC, Lawrence Memorial/Regis College Nursing and Radiography Programs, Massachusetts Association of Colleges of Nursing, Massachusetts Association of Nurse Anesthetists, Massachusetts Coalition for the Prevention of Medical Errors, Massachusetts Coalition of Nurse Practitioners, Massachusetts Hospital Association, Massachusetts Nurses Association, Massachusetts Nurses Association - Peer Assistance Program, Northeastern University School of Nursing and 22 individuals. An additional 250 individuals submitted an email containing identical written comments¹. 45 individuals provided oral testimony. The proposed revision that received the most comment was 244 CMR 3.05(4)(d). That revision would include delegation of medication administration among activities that may be delegated, albeit with the limiting proviso only as permitted in M.G.L. 94C and 105 CMR 700.000, and with additional safeguards in the form of regulatory criteria to be considered prior to any such delegation. D. Drew asked for clarification about telehealth nursing practice in Massachusetts and about licensure in Massachusetts. K. Gehly and L. Silva explained the process of a nurse making an assessment. G. Dufault asked for further clarification on delegation. D. Drew asked about where in the regulation it states that the nurse is not responsible if the unlicensed person does not follow the instructions. V. Berg and L. Silva explained the delegation process to the Board. S. Abbott asked what would happen if an unlicensed person did not follow the delegation. V. Berg explained what would happen and also the Board's involvement with licensure and the restrictions on only overseeing a nurse's license. K. Gehly stated that the review had clarified the changes made to 244 CMR 3.00 and the regulation in general. The recommended actions with respect to 244 CMR 3.00 were: make further changes to the proposed revisions as recommended in this memo and the accompanying chart; submit the draft and

comments for post-public hearing administrative review; and if approved, promulgate the regulation with proposed revisions as published.

V. Berg went over the regulation 244 CMR 6.00 and the public comments and proposed changes. The Board received comments on proposed revisions to 244 CMR 6.00 from two sources. The Massachusetts Nurses Association (MNA) generally approved the revisions. In addition, Lawrence Memorial/Regis College Nursing and Radiography Programs submitted comments suggesting that a time limit be set between when the Board has withdrawn approval from a nursing education program and when the program may submit a new application for approval. The recommended actions with respect to 244 CMR 6.00 were: make further changes to the proposed revisions as recommended in this memo and as set forth in the accompanying draft: submit the draft and comments for administrative review; and if approved, re-publish the regulation with updated proposed revisions and schedule a second public hearing.

V. Berg briefed the proposed change to 244 CMR 7.00 and the comments that were brought up in the public hearing. V. Berg stated that the Board received comments and oral testimony on proposed revisions to 244 CMR 7.00 from the MNA and the MNA Peer Assistance Program, and also from Massachusetts Coalition of Nurse Practitioners (MCNP) and Massachusetts Association of Nurse Anesthetists (MANA). The comments raised questions and concerns, but did not include proposed edits. The recommended actions with respect to 244 CMR 7.00 were: make no further changes to the proposed revisions: submit the draft and comments for post-public hearing administrative review; and if approved, promulgate the regulation with proposed revisions as published.

V. Berg briefed the proposed changes made to 244 CMR 10.00 and the public recommendations to the Board. The Board received comments on proposed new regulation, 244 CMR 10.00 from MNA, MCNP and MANA. The Board received a number of suggested edits with respect to the proposed revisions to 244 CMR 3.00. V. Berg stated that references were included in each chapter of regulations that definitions for terms used in that chapter, and all of 244 CMR, are located in 244 CMR 10.00. The recommended actions with respect to 244 CMR 10.00 were: make further changes to the proposed revisions as recommended in the chart that was distributed; add references into each chapter of regulations that definitions for those regulations may be found at 244 CMR 10.00; submit the draft and comments for post-public hearing administrative review; and if approved, promulgate the regulation with proposed revisions as published.

ACTION:

- A. Motion by D. Drew, seconded by A. Peckham, and unanimously passed to adopt the limited policy revisions and additions as proposed.
- B. Motion by B. Levin, seconded by J. Killion, and unanimously passed to adopt the recommendations for 244 CMR 4.00 and submit them for public hearing.
 - Motion by J. Killion, seconded by L. Keough and unanimously passed to accept the recommendations for 3.00 and submit them for public hearing.
 - Motion by L. Keough, seconded by B. Levin, and unanimously passed to accept the recommendations to 6.00 and submit them for public hearing.
 - Motion by J. Killion, seconded by C. LaBelle, and unanimously passed to accept the recommendations for 7.00 and submit them for public hearing.
 - Motion by A. Peckham, seconded by G. Dufault, and unanimously passed to accept the recommendations for 10.00 and submit them for public hearing.

TOPIC:

G.L. c.30A, §21 Executive Session

DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by J. Killion, and unanimously passed by roll call vote to go into Executive Session at 10:22 a.m. as per Purpose One of G.L. c.30A, §21 (a)(1).

G.L. c. 30A, § 21 Executive Session 10:22 a.m. to 11:14 a.m.

TOPIC:

G.L. c. 112, s. 65C Session

DISCUSSION:

None

ACTION:

Motion by J. Killion, seconded by B. Levin, and unanimously passed to go into G.L. c. 112, s. 65C Session at 11:14 a.m.

G.L. c. 112, s. 65C Session 11:14 a.m. to 11:25 a.m.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by L. Keough, and unanimously passed to go into Adjudicatory Session at 11:25 a.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 11:25 a.m. to 11:38 a.m.

TOPIC:

Adjournment

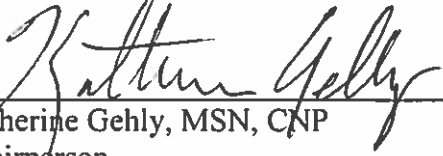
DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by S. Abbott, and unanimously passed to adjourn the meeting at 11:38 p.m.

CORRECTED Minutes of the Board's January 19, 2017, Re-Scheduled Board Meeting-Regular Session were approved by the Board on February 8, 2017.



Katherine Gehly, MSN, CNP
Chairperson
Board of Registration in Nursing

Agenda with exhibits list attached.

COMMONWEALTH OF MASSACHUSETTS
Board of Registration in Nursing

Notice of the Regularly Scheduled Meeting
Regular Session
239 Causeway Street
Room 417
Boston, Massachusetts 02114

January 19, 2017

PRELIMINARY AGENDA AS OF 1.12.17

Estimated Time	Item #	A. Item	Exhibit	Presented by
8:00 a.m.	I.	B. CALL TO ORDER & DETERMINATION OF QUORUM	None	
	II.	APPROVAL OF AGENDA	Agenda	
	III.	APPROVAL OF BOARD MINUTES A. Draft Minutes for the December 14, 2016 Meeting of the Board of Registration in Nursing, Regular Session	Minutes	
	IV.	REPORTS, ANNOUNCEMENTS AND ADMINISTRATIVE MATTERS A. Announcements		
	V.	SARP A. SARP Activity Report: None		
	VI.	PROBATION A. Probation Staff Action Report: None		
	VII.	PRACTICE A. Practice Coordinator Staff Report: None		

	VIII.	EDUCATION A. Nursing Education Staff Report: None B. 244 CMR 6.04(1)(c)&(1)(f) Administrative Changes <ol style="list-style-type: none"> 1. Bunker Hill Community College, Associate Degree RN Program (Program Administrator) 2. Quincy College, Associate Degree, RN and Practical Nursing Programs (Program Administrator) 3. Roxbury Community College, Associate Degree, RN and Practical Nursing Programs (Program Administrator) C. 244 CMR 6.08(1)(h) NCLEX pass rate less than 80% for first time writers On Site Survey Roxbury Community College, Associate Degree, RN and Practical Nursing Programs D. 244 CMR 6.08(1)(h) NCLEX pass rate less than 80% for first time writers American International College Baccalaureate Degree RN Program.	Report Compliance Report Compliance Report	KA KA AM
	IX.	REQUESTS FOR LICENSE REINSTATEMENT A. None		
	X.	STRATEGIC DEVELOPMENT, PLANNING AND EVALUATION A. Systematic Policy Evaluation: None B. Request to approve revisions to current Board delegated authority related to conditions of a Probation Agreement or Order and monitoring such conditions C. Presentation/Report <ol style="list-style-type: none"> 1. 244 CMR 3.05 D. Regulatory Review <ol style="list-style-type: none"> 1. 244 CMR 4.00 2. 244 CMR 5.00, 8.00 and 9.00 3. 244 CMR 3.00, 6.00, 7.00 and 10.00 E. Topics for Next Agenda	Memo Presentation Memo/Draft Reg Verbal Memo/Draft Reg	KF/ASF LT VB VB VB

	XI.	EXECUTIVE SESSION The Board will meet in Executive Session as authorized pursuant to M.G.L. c.30A, § 21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. <ol style="list-style-type: none"> Specifically, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensees relevant to their petitions for license status change. Approval of prior executive session minutes in accordance with M.G.L. c. 30A, § 22(f) for sessions held during the December 14, 2016 meeting. 	CLOSED SESSION	
	XII.	M.G.L. c. 112, § 65C SESSION	CLOSED SESSION	
	XIII.	M.G.L. c. 30A, § 18 ADJUDICATORY SESSION	CLOSED SESSION	
12:15 p.m.	XIV.	ADJOURNMENT		